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IN THE MATTER OF THE DISCIPLINARY

PROCEEDINGS AGAINST

WILLIAM C. THOMAS

RESPONDENT.

FINAL DECISION AND ORDER

LS9905274REB

The parties to this action for the purpose of Wis. Stats. sec. 227.53 are:

William C. Thomas

6336 N 107th St.

Milwaukee, WI 53225

Wisconsin Real Estate Board

P.O. Box 8935

Madison, WI 53708-8935

Department of Regulation and Licensing Division of Enforcement P.O. Box 8935 Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. William C. Thomas ("Thomas"), date of birth 5/18/52, is licensed in the State of Wisconsin as a real estate broker having license # 90-35014. This license was first granted to him on 7/23/85. Thomas's license expired on January 1, 1999, and has as of April 14, 1999, not been renewed. Thomas's most recent address on file with the Department of Regulation and Licensing is, 6336 N 107th St., Milwaukee, WI 53225.

2. At all times relevant to the facts set forth below Thomas was a real estate broker for, Thomas Realty Company, 6336 North 107' St., Milwaukee, WI 53225.

3. On or about November 28, 1995, Thomas presented a Disclosure of Real Estate Agency form (Form 218) to potential homebuyer Warren G. Kirkendoll Jr. On line 56 of that form Thomas states that he is working as Seller's Agent. This form was signed by Mr. Kirkendoll of November 28, 1995. A copy of this Form 218 is attached as **Exhibit I** and is incorporated herein by reference.

4. On or about December 6, 1995, a Residential Offer To Purchase was drafted by Thomas on behalf of buyer Mr. Kirkendoll Jr. for property located at 108 N. 45th St. Milwaukee, WI. The owners of the property were Herman and Yvonne Ross. Line I of the Residential Offer To Purchase states that the broker drafting this offer is the agent of the seller. The offered price was \$63,500.00, with closing to take place no later than December 30, 1995. Lines 9 & 10 of the Residential Offer To Purchase indicate that earnest money in the amount of \$1,500.00 in the form of a check was to be paid within 1 day of acceptance. Line 23 indicates that TIME IS OF THE ESSENCE as to earnest money payment(s). Attached to the Residential Offer To Purchase was Addendum A dated December 5, 1995, specifying financing contingencies. A copy of the Residential Offer To Purchase with Addendum A is attached as **Exhibit 2** and is incorporated herein by reference.

5. On or about December 6, 1995, Mr. and Mrs. Ross countered Mr. Kirkendoll's offer (Exhibit 2) with a selling

price of \$64,250.00 and changing the closing date from December 30, 1995, to January 8, 1996. On or about December 7, 1995, Mr. Kirkendoll countered the counter with a purchase price of \$64,000.00. Mr. and Mrs. Ross accepted this last counter on December 8, 1995. A copy of the Ross's Counter-Offer is attached as **Exhibit 3** and is incorporated herein by reference. A copy of Mr. Kirkendoll's Counter-Offer to the Ross's counter is attached as **Exhibit 4** and is incorporated herein by reference.

6. The listing broker, Ms. Sheila Perkins, made several unsuccessful **attempts** between December 11, 1995, and January 3, 1996, to contact Thomas regarding Kirkendoll's loan commitment and other matters needed to effect closing. On or about January 3, 1996, Yvonne Ross, having been informed of Ms. Perkins' unsuccessful attempts to contact Thomas, called Mr. Kirkendoll directly. At that time Mr. Kirkendoll told Mrs. Ross, that for personal reasons he no longer wished to purchase their property.

7. On or about January 4, 1996, Ms. Sheila Perkins contacted Thomas and questioned him about the buyers' intent to close on January 8, 1996. Thomas alleges that this was the first indication that he had received that the buyer was no longer interested in the property. This may have been due to the fact that he was on vacation in Pine Bluff, Arkansas over the Christmas holidays.

8. On or about January 5, 1996, Ms. Sheila Perkins contacted Thomas concerning receipt of the earnest money. Thomas then informed Perkins that he had never received the \$1,500.00 earnest money from Mr. Kirkendoll even though he made a number of attempts to obtain it. Thomas had not previously informed Perkins or the sellers of his failed efforts to obtain the earnest money.

9. The Ross/Kirkendoll transaction failed to close.

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Board has jurisdiction to act in this matter pursuant to sec. 452.14, Wis. Stats.

2. The Wisconsin Real Estate Board is authorized to enter into the attached Stipulation pursuant to sec. 227.44(5), Wis. Stats.

3. Respondent **William C. Thomas** has violated:

a. Wis. Adm. Code sec. RL24.07(2) and Wis. Adm. Code sec. RL 24.025(I) and Wis. Stats. sec. 452.133(2)(a), Wis. Stats. sec. 452.133(2)(b) and Wis. Stats. sec. 452.14(3))(i) by failing to collect the \$1,500.00 earnest money within one day of acceptance as set forth on lines 9 and 10 of the Residential Offer To Purchase (Exhibit 2), and by failing to disclose to the Rosses or the listing broker that he had not collected the earnest money as required.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that the attached Stipulation is hereby accepted.

IT IS FURTHER ORDERED, that Respondent **William C. Thomas**, license #90-35014, be, and hereby is, **REPRIMANDED**.

IT IS FURTHER ORDERED, that Respondent **William C. Thomas**, within six months of the date of this Order, successfully complete the following course modules from the 36 hour pre-licensing real estate broker's course at an educational institution approved by the Department of Regulation and Licensing:

a. The five hour Trust Accounts, Escrow, Closing Statement module - section

RL 25.02(2)(c), of the Wisconsin Administrative Code.

b. The four hour Business Ethics module - section RL 25.02(2)(g), of the Wisconsin Administrative Code.

and submit proof of the same in the form of verification from the institution providing the education to the Real Estate Board, P.O. Box 8935, Madison, WI 53708-8935. None of the education completed pursuant to this requirement may be used to satisfy any continuing education requirements that are or may be instituted by the Board or the Department of Regulation and Licensing.

IT IS FURTHER ORDERED. that in the event Respondent William C. Thomas fails to successfully complete and

report the educational requirements within the time and in the manner as set forth above, then and in that event. and without further notice to the Respondent William

C. Thomas, his real estate license shall be suspended without farther hearing and without farther Order of the Board, and said suspension shall continue until further.Order of the Board.

IT IS FURTHER ORDERED. that Respondent **William C. Thomas**, pay partial costs of this matter in the amount of S300.00, within 30 days of the date of this Order by making payment of the same to the Department of Regulation and Licensing, P.O. Box 8935, Madison, WI 53708-8935.

IT IS FURTHER ORDERED, that in the event Respondent **William C. Thomas** fails to pay the \$300.00 partial costs within the time and manner as set forth above, then and in that event, and without further notice to the Respondent William C. Thomas, his real estate broker's license shall be suspended without further hearing and without farther Order of the Board, and said suspension shall continue until the full amount of said costs have been paid to the Department of Regulation and Licensing and his failure to pay the costs shall be considered a violation of this Order by the Board.

IT IS FURTHER ORDERED, that file 96 REB 031 be, and hereby is, closed.

Dated this 25th day of. May, 1999

WISCONSIN REAL ESTATE BOARD

By: Richard Hinsman

A member of the Board